

JOURNAL OF THE HOUSE.

Wednesday, June 14, 2006.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Gracious God, in Whom we place our trust and faith, Your assistance enables us to comprehend and to address the legislative and public policy concerns of the people as well as the needs of our communities and the Commonwealth. Your guidance and direction help us to see issues more clearly as we try to select our most thoughtful, ethical and realistic legislative and administrative options. Teach us to keep the common good in our plans for today and tomorrow. Today, we celebrate Flag Day, the adoption of our official flag. Let today's celebration remind us of the creative decisions and the personal sacrifices of so many dedicated citizens who have made this celebration a reality for us.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Sciortino of Medford.

A statement of Mr. Rogers of Norwood concerning Mr. Sciortino of Medford was spread upon the records of the House, as follows:

Statement concerning Representative Sciortino of Medford.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Sciortino of Medford, will not be present in the House Chamber for today's sitting due to a long standing commitment outside the Commonwealth. Any roll calls that he may miss today or tomorrow will be due entirely to the reason stated.

Guests of the House.

Robert DiPersio and Jennifer DiPersio.

During the session, the Chair (Mr. Petrolati of Ludlow) declared a brief recess and introduced Robert DiPersio and his daughter, Jennifer DiPersio, the brother and niece of Chief Court Officer Gene DiPersio.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Michael Midey Besser.

Resolutions (filed by Representatives L'Italien of Andover and Finegold of Andover) congratulating Michael Midey Besser on receiving the Ann McGrath Guzowski Scholarship from the Andover Democratic Town Committee; and

Resolutions (filed by Mrs. Owens-Hicks of Boston and other members of the House) congratulating Kay Bourne on the occasion of a community celebration honoring her lifetime achievements and expressing appreciation for her community activism;

Kay Bourne.

Mrs. Parente of Milford, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Donato of Medford, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Keenan of Salem, petition (accompanied by bill, House, No. 5045) of John D. Keenan (with the approval of the mayor and city council) that the city of Salem be authorized to issue an additional license for the sale of alcoholic beverages to Ristorante Gioia, Inc. To the committee on Consumer Protection and Professional Licensure.

Salem, Ristorante Gioia.

By Mrs. Owens-Hicks of Boston, petition (accompanied by bill, House, No. 5046) of Shirley Owens-Hicks (with the approval of the mayor and city council) relative the procurement of contracts for the redevelopment of certain public housing projects in the city of Boston; and

Franklin Hill Housing Development.

By Mr. Quinn of Dartmouth, petition (accompanied by bill, House, No. 5047) of John F. Quinn and Mark C. Montigny (by vote of the town) that the town of Dartmouth be authorized to borrow a certain amount of money for the payment of medical expenses of public safety personnel;

Dartmouth, medical expenses.

Severally to the committee on Municipalities and Regional Government.

By Ms. L'Italien of Andover, petition (accompanied by bill, House, No. 5048) of Barbara A. L'Italien, Bruce E. Tarr and Bradford Hill (by vote of the town) relative to the appointment of police officers in the town of Boxford. To the committee on Public Service.

Boxford, police officers.

Severally sent to the Senate for concurrence.

Papers from the Senate.

Mr. Donato of Medford being in the Chair,—

An order came from the Senate with the endorsement that it had been adopted by said branch, as follows:

Ordered, That Notwithstanding the provisions of Joint Rule 10, the committees on Children and Families and Labor and Workforce Development, acting jointly, be granted until Wednesday, June 28, 2006, within which to make its final report on current Senate document numbered 2535.

Children and Families and Labor and Workforce Development committees, extension of time for reporting.

Under suspension of the rules, on motion of Mr. Rodrigues of Westport, the order (having been approved by the committees on Rules of the two branches, acting concurrently), was considered forthwith; and it was adopted, in concurrence.

An order came from the Senate with the endorsement that it had been adopted by said branch, as follows:

Ordered, That Notwithstanding the provisions of Joint Rule 10, the committee on Municipalities and Regional Government be granted until Friday, June 30, 2006, within which time to make its final report on current Senate number 2531.

Under suspension of the rules, on motion of Ms. Kaprielian of Watertown, the order (having been approved by the committees on Rules of the two branches, acting concurrently), was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

Mr. DeLeo of Winthrop, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of contained in Senate document numbered 2291) of the House Bill making appropriations for the fiscal year 2006 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4443), reported, in part, a Bill making appropriations for the fiscal year 2006 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5056). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting, the question, being on acceptance.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of James B. Eldridge for legislation to establish a sick leave bank for Teddy Giblin, an employee of the Department of Correction. Under suspension of the rules, on motion of Mr. Eldridge of Acton, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

By Mr. Mariano of Quincy, for the committee on Financial Services, on House, No. 3018, an Order relative to authorizing the committee on Financial Services to make an investigation and study of a certain House document concerning a study of direct payment and referral repair shop plans of motor vehicle insurees (House, No. 5043).

By Mrs. Walrath of Stow, for the committee on Health Care Financing, on House, Nos. 4827 and 4938, an Order relative to authorizing the committee on Health Care Financing to make an investigation and study of certain House documents concerning notification of medical test results and organ donations (House, No. 5044).

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of said orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mrs. Owens-Hicks of Boston, for the committee on Children and Families, on House, Nos. 2858 and 3864, a Bill to require national background checks (House, No. 5052).

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a message from His Excellency the Governor, a Bill relative to enhanced protection for victims of domestic violence (printed in House, No. 30).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Engrossed Bills.

The engrossed Bill authorizing terminal audits for commercial vehicles (see House, No. 2113, amended) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed bills

Relative to the boundaries of the Cherry Valley and Rochdale Water District (see House, No. 4677);

Regulating sewer betterment assessments in the town of Richmond (see House, No. 4753); and

Requiring the preparation of certain ballots in the city of Boston (see House, No. 4942);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The Senate Bill increasing the expenditure limit on revolving funds in the city of Attleboro (Senate, No. 2495), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

House bills

Relative to the tax deferral agreements in the town of Princeton (House, No. 4297);

Providing for the licensing of genetic counselors (House, No. 4326) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the historic district commission of the town of Provincetown (House, No. 4501); and

Municipalities and Regional Government committee, extension of time for reporting.

Supplemental appropriations.

Teddy Giblin, sick leave.

Motor vehicle repair shops.

Medical notifications

National background checks.

Domestic violence.

Bill enacted.

Bills enacted.

Third reading bill.

Third reading bills.

Third
reading
bills.

Relative to certain housing in the town of Westborough (printed in House, No. 4609);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Third reading
bill amended.

The House Bill authorizing the town of Franklin to establish a post employment health insurance trust fund (House, No. 4150) was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended in section 2 by adding the following two definitions:

“ ‘Unfunded post-retirement benefit liability’, the difference between the post-retirement benefit liability on the measurement date and the actuarial value of the assets of the Group Insurance Liability Fund on the same date, as determined by the actuary.

‘Unfunded post-retirement benefit liability amortization payments’, the amount which, when paid into the Post-Retirement Benefit Fund annually over a period of years together with the normal cost of post-retirement benefits for each year of said period of years, will reduce to zero at the end of said period the unfunded post-retirement benefit liability in existence as of the beginning of said period as determined by the actuary.”; and by adding at the end thereof the following three sections:

“SECTION 3. There shall be a trust fund to be known as the Group Insurance Liability Fund. The town treasurer shall manage the fund in consultation with the town administrator. Such fund shall be credited with all amounts appropriated or otherwise made available by the town for the purposes of meeting the current and future cost of premiums payable by the town on behalf of or direct payments payable by the town to retired employees of the town and the eligible surviving spouses or dependents of deceased employees of the town pursuant to this act. Amounts in said fund including any earnings or interest accruing from the investment of such amounts shall be expended only for the payment of such premiums or direct payment, except as otherwise provided in this act, and only in accordance with a schedule of such payments developed by the actuary in consultation with the town council. Subject in each instance to the approval of the town administrator, the town treasurer shall invest and reinvest the amounts in said fund not needed for current disbursement consistent with the prudent person rule. The treasurer may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the fund and may pay for such advice and such other services as determined by the town council.

SECTION 4. The actuary shall determine, as of January 1, 2006 and no less frequently than every second year thereafter, the normal cost of post-retirement benefits, the post-retirement benefit liability, and unfunded post-retirement benefit liability. All such determinations shall be made in accordance with generally accepted actuarial standards, and the actuary shall make a report of such determinations. Said report shall, without limitation, detail the demographic and economic actuarial assumptions used in making such determina-

tions, and each such report subsequent to the first such report shall also include an explanation of the changes, if any, in the demographic and economic actuarial assumptions employed and the reasons for any such changes, and shall also include a comparison of the actual expenses by the town for premium or direct payments constituting the post-retirement benefit liability during the period since the last such determination, and the amount of such expenditures which were predicted pursuant to the previous such report for the said period.

The actuary, in consultation with the town council, shall establish a schedule of annual payments to be made to the Group Insurance Liability Fund designed to reduce to zero the unfunded post-retirement benefit liability. Said schedule to reduce the initial unfunded post-retirement benefit liability over a period of years not to exceed 30. That any additional unfunded liability created subsequent to the last such determination by the provision of any new benefit or by any increase in the premium share payable by the town shall be separately so amortized over the 15 years following the date of the determination in which such additional liability is first recognized. Each such annual payment shall be equal to the sum of the unfunded post-retirement benefit amortization payment required for such year and the payments required to meet the normal cost of post-retirement benefits for such fiscal year.

All payments for the purposes of meeting the town’s share of premium costs for direct payments to retired employees of the town and the surviving spouses or dependents of deceased employees of the town pursuant to this act shall be made from the Group Insurance Liability Fund in accordance with a schedule of disbursements established by the actuary.

SECTION 5. This act shall effect upon its passage.”

The amendment was adopted; and the bill (House, No. 4150, amended) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill relative to the use of motor scooters within the city of Chelsea (House, No. 4207) was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended by substitution of a Bill prohibiting the use of certain vehicles on public ways in the city of Chelsea (House, No. 5054), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill establishing a sick leave bank for Michael McLaughlin, an employee of the Trial Court of the Commonwealth (House, No. 4578) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Donato of Medford, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Third reading
bill amended.

Second reading
bill engrossed.

Second
reading
bills.

Senate bills

Relative to the Nantucket Housing Authority (Senate, No. 2103, amended);

Further regulating the retirement of certain employees of the Department of Fire Services (Senate, No. 2293, amended); and

Changing the membership of the retirement board of the Massachusetts Water Resources Authority employees' retirement system (Senate, No. 2507); and

House bills

Relative to the use of the name of financial institutions (House, No. 3007);

Relative to the governance of state chartered banks (House, No. 3075);

Relative to officers and directors of banks (House, No. 3077);

Relative to a certain retired employee of the Commonwealth (House, No. 4464);

Relative to exposures to hazardous materials by certain members of the National Guard (House, No. 4591, changed);

Relative to processing of funds (House, No. 4649);

Relative to group marketing plans (House, No. 4974); and

Authorizing the town of Southbridge to grant additional liquor licenses (House, No. 5004);

Severally were read a second time; and they were ordered to a third reading.

Second reading
bill amended.

The House Bill relating to professional engineers and land surveyors (House, No. 4808) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by adding at the end thereof the following three sections:

“SECTION 2. Section 45 of chapter 13 of the General Laws, as appearing in the 2004 Official Edition, is hereby further amended in line 4 by striking out the words ‘one registered land surveyor’ and inserting in place thereof the following:— 3 registered land surveyors.

SECTION 3. Said section 45, as so appearing, is further amended in line 10 by striking out the words ‘registered land surveyor’ and inserting in place thereof the following:— 3 registered land surveyors.

SECTION 4. Said section 45, as so appearing, is further amended in lines 12 and 13 by striking out the word ‘the’ each time that it appears and inserting in place thereof on each such occasion the following:— any.”— was adopted.

The bill (House, No. 4808, amended) then was ordered to a third reading.

Hunter
education.

The Senate Bill removing automatic qualification for certain licenses (Senate, No. 469, amended) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Peterson of Grafton moved that it be amended by adding at the end thereof the following section:

“SECTION 3. Section 14 of Chapter 313 of the General Laws as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 5, the words ‘nineteen hundred and ninety-seven’ and inserting in place thereof the following text:— two thousand and seven.”.

The amendment was adopted; and the bill (Senate, No. 469, amended) was ordered to a third reading.

Recesses.

At twenty-five minutes after eleven o'clock A.M., on motion of Mr. Lepper of Attleboro (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at that time the House was called to order with Mr. Petrolati of Ludlow in the Chair.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, until half past one o'clock P.M.; and at eleven minutes before two o'clock the House was called to order with the Speaker in the Chair.

Papers from the Senate.

The House Bill further regulating the development of underused state-owned real property and the disposition of state-owned surplus real property (House, No. 4491, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2521.

Under suspension of the rules, on motion of Mr. Flynn of Bridgewater, the amendment was considered forthwith.

The House then non-concurred with the Senate in its amendment; and, on motion of Mr. Bosley of North Adams, asked for a committee of conference on the disagreeing votes of the two branches. Representatives Bosley, Flynn and Jones of North Reading then were appointed as the committee on the part of the House. Sent to the Senate to be joined.

The House Bill relative to streamlining and expediting the permitting process in the Commonwealth (House, No. 4968) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2566.

Under suspension of the rules, on motion of Mr. Dempsey of Haverhill, the amendment was considered forthwith.

The House then non-concurred with the Senate in its amendment; and, on motion of Mr. Rodrigues of Westport, asked for a committee of conference on the disagreeing votes of the two branches. Representatives Rodrigues, Leary of Worcester and Evangelidis of Holden then were appointed as the committee on the part of the House. Sent to the Senate to be joined.

Recesses.

Surplus
property.

Committee of
conference.

Permitting
process.

Committee of
conference.

Recess.

Recess.

At two minutes before two o'clock P.M., on motion of Mr. Petrolati of Ludlow (the Speaker being in the Chair), the House recessed until a quarter after two o'clock; and at twenty-eight minutes before three o'clock the House was called to order with Mr. Petrolati in the Chair.

Quorum.

Quorum.

Mr. Petruccelli of Boston thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,
yea and nay
No. 444.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 152 members were recorded as being in attendance.

[See Yea and Nay No. 444 in Supplement.]

Therefore a quorum was present.

Orders of the Day.

Free tobacco
products,
prohibit.

The House Bill to protect the public health by banning the public distribution of free smoking or tobacco products for commercial purposes (House, No. 3634) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Peterson of Grafton moved that it be amended by substitution of a Bill relative to prohibiting the distribution, possession and use of all tobacco products (being a duplicate of House, No. 3816), which was read.

Amendment
rejected,
yea and nay
No. 445.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 4 members voted in the affirmative and 150 in the negative.

[See Yea and Nay No. 445 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof six new sections (the text of said sections be printed in House document numbered 5055).

Amendment
rejected,
yea and nay
No. 446.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 43 members voted in the affirmative and 110 in the negative.

[See Yea and Nay No. 446 in Supplement.]

Therefore the amendment was rejected.

The bill (House, No. 3634) then was ordered to a third reading.

State
pharmacy
council,
establish.

The House Bill establishing the state pharmacy council (House, No. 2722), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mrs. Walrath of Stow; and on the roll call 150 members voted in the affirmative and 0 in the negative.

Bill passed to
be engrossed,
yea and nay
No. 447.

[See Yea and Nay No. 447 in Supplement.]

Therefore the bill (House, No. 2722) was passed to be engrossed. Sent to the Senate for concurrence.

The engrossed Bill establishing the Concord housing development corporation (see House, No. 4320) (which had been returned to the House by His Excellency the Governor with recommendation of amendment) (for message, see House, No. 4611), was considered.

Concord,
housing
development
corporation.

The amendment recommended by the Governor then was adopted in the following form (as approved by the committee on Bills in the Third Reading):

In section 2 by striking out, in the introductory paragraph the words "and clause (k)".

Sent to the Senate for concurrence.

The Senate Bill reducing the loss of life due to fires caused by cigarettes (Senate, No. 2403, amended) was read a second time.

Cigarettes,
fire
prevention.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended by striking out section 1; in section 2, in line 18, by striking out the word "health" and inserting in place thereof the words "public safety", by striking out the paragraph contained in lines 153 to 157, inclusive, (inserted by amendment by the Senate) and inserting in place thereof the following paragraph:

"(c) For each cigarette listed in a certification a manufacturer shall pay to the commissioner a \$250 fee. The commissioner may, by regulation, adjust this fee to an amount sufficient only to provide for processing, testing, enforcement and oversight activities related to sections 2B to 2F, inclusive." and by striking out section 5 (inserted by amendment by the Senate) and inserting in place thereof the following section:

"SECTION 5. This act shall take effect on January 1, 2008.",— were adopted.

After remarks the bill (Senate, No. 2403, amended) then was ordered to a third reading.

Orders.

An Order (filed by Mr. Scaccia of Boston) relative to special procedures for consideration of the House Bill relative to the minimum wage (House, No. 5053), having been reported from the committee on Rules, under the provisions of House Rules 7B and 7C, was adopted.

Minimum
wage,
procedures.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Next
sitting.

Mr. Donato of Medford then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at nine minutes before five o'clock P.M. (Mr. Petrolati of Ludlow being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.